

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN THE MATTER OF

MARK W. KITE,

DEBTOR

IN PROCEEDINGS

UNDER CHAPTER 13

CASE NO. 20-07220

JUDGE: Deborah L. Thorne

NOTICE OF MOTION

Notified via Electronic Filing

U.S. Trustee , 219 S Dearborn St, Room 873, Chicago, IL 60604

Marilyn Marshall, 224 South Michigan, Ste 800, Chicago, IL 60604

David M Siegel, David M. Siegel & Associates, 790 Chaddick Drive, Wheeling, IL 60090

Notified via US Postal Service

Mark W. Kite, 10254 S. 52nd Avenue, Oak Lawn, IL 60453

Cheryl Kite, 10254 S 52nd Ave, Oak Lawn, IL 60453

Please take notice that on December 1, 2021 at 8:30 a.m., or as soon thereafter as I may be heard, I shall appear before the Honorable Judge Deborah L. Thorne or before any other Bankruptcy Judge who may be presiding in her place and stead and shall present the accompanying motion. At that time you may attend if you so choose.

This motion will be presented and heard electronically using Zoom for Government.

No personal appearance in court is necessary or permitted. To appear and be heard on the motion, you must do the following:

To appear by video, use this link: <https://www.zoomgov.com>. Then enter the meeting ID. No password is required.

To appear by telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID.

Meeting ID and password. The meeting ID for this hearing is 160 9362 1728 – no password required. The meeting ID and further information can also be found on Judge Thorne's web page on the court's web site.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he/she caused a true and correct copy of the above and foregoing document to be served upon the parties listed below on November 15, 2021.

Respectfully Submitted,

/s/ Richard B. Aronow
Richard B. Aronow

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The firm of LOGS Legal Group LLP is a debt collector. This is an attempt to collect a debt. Any information may be used for that purpose. If your personal liability for this debt has been extinguished, discharged in bankruptcy or if a court order prohibits collecting this debt from you personally, then this is an attempt to enforce the Movant's rights with respect to the property addressed herein, and it is not an attempt to collect the debt from you personally.

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MOTION FOR RELIEF FROM THE AUTOMATIC AND THE CO-DEBTOR STAYS,
OR IN THE ALTERNATIVE DISMISSAL OF THE CASE

NOW COMES MidFirst Bank, by and through its attorneys, Richard B. Aronow and LOGS Legal Group LLP, and states as follows:

1. The Debtor filed a Chapter 13 Petition on March 13, 2020. He filed an amended plan on May 27, 2020, which was confirmed on June 3, 2020.
2. The Movant holds a note (or services a loan) that is secured by a mortgage on the Debtor's residence, commonly known as: 10254 S. 52nd Avenue, Oak Lawn, IL. 60453.
3. A material term of the plan called for the Debtor to make monthly post-petition mortgage payments directly to the Movant commencing with the installment that came due on April 1, 2020.
4. Notwithstanding that material term, post-petition mortgage payments are in default in the amount of \$6,854.40 through November 2021:

9/1/2021 - 11/1/2021 monthly payments at \$2,200.30 each	= \$	6,600.90
Suspense balance	= \$	(984.50)
Court costs for this motion	= \$	188.00
Creditor's attorneys' fees for this motion	= \$	1,050.00
TOTAL	= \$	6,854.40

5. That failure constitutes a default entitling the Movant to relief from the automatic stay, pursuant to 11 USC 362(d).

6. By failing to make current mortgage payments, the Debtor had failed to provide the Movant with adequate protection for its security, contrary to the requirements of the Bankruptcy Code.

7. The Movant adopts the facts set forth in the Statement of Default as additional allegations in support of this motion.

8. For the reasons set forth above, it would be inequitable to delay the enforcement of any order modifying the automatic stay with respect to the Movant.

9. Upon information and belief, Cheryl Kite, the Debtor's non-filing spouse may have a legal or an equitable interest in the subject property.

10. Upon information and belief, Cheryl Kite received consideration that was equal to or greater than the consideration that the Debtor received when the subject loan closed.

11. As set forth above, Cheryl Kite's interests in the subject property may be protected by a co-debtor stay, pursuant to 11 USC 1301.

12. It would cause the Movant irreparable harm, if it were to obtain relief from the automatic stay with respect to the subject property, but it still were prevented from pursuing its non-bankruptcy rights under state law with respect to that property due to a co-debtor stay protecting Cheryl Kite's interest.

WHEREFORE, MidFirst Bank, moves to modify the automatic stay (pursuant to 11 USC 362(d)) and the co-debtor stay as it may protect the interests of Cheryl Kite (pursuant to 11 USC 1301) to allow it to pursue its non-bankruptcy rights under state law with respect to the property commonly known as: 10254 S 52nd Ave, Oak Lawn, IL 60453 and that Federal Bankruptcy Rule 4001(a)(3) be waived, or to dismiss the case.

Respectfully submitted,

/s/ Richard B. Aronow
Attorney for MidFirst Bank

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